

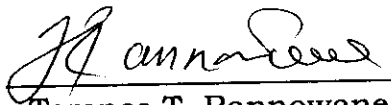
REPUBLIC OF BOTSWANA
ADMINISTRATION OF JUSTICE

PRACTICE DIRECTIVE NO. 3 OF 2020

TO: Hon. Justices of Appeal
Hon. Judges of the High Court
All Registrars
All Magistrates
All Staff Members
All Attorneys
All Members of the Public

REF: RM 1/6/1 X

FROM:


Terence T. Rannowane
CHIEF JUSTICE

8th May 2020

**DIRECTIONS ON COURT OPERATIONS DURING THE ALLEVIATED
COVID-19 RESTRICTIONS FROM PHASE 1 TO PHASE 2**

1. This Practice Directive shall be deemed to have come into effect on 8th May 2020. For the avoidance of doubt, Practice Directives Nos. 1 and 2 of 2020, including suspension of the *dies* requirements during the lockdown, remain in force to the extent that they are not amended hereby.
2. Pursuant to Regulation 30(B) of S.I. 61/20 as amended, I hereby amend Practice Directive No. 2 of 2020 issued on 10th April 2020 as follows:
 - 2.1 With effect from Friday 8th May 2020 courts shall operate on a regular basis subject to the following conditions:

2.1.1 JUDGE/JUDICIAL OFFICER AND COURT STAFF HEALTH

All courts shall be disinfected before they start operating, and after every court sitting the tables and other surfaces shall be sanitised.

2.1.2 SCHEDULING OF CASES

Every Judicial officer shall examine his/her roll, and consult with the parties concerned and assign new dates, to the following case types:

2.1.2.1 APPLICATIONS AND APPEALS

2.1.2.1.1 Attorneys/parties shall, save in exceptional circumstances, file their pleadings and other process electronically. Court fees will be payable via a Remittance Voucher under a nominated Government Bank Account and shall state what they are paying for under the Reference column. Our Accounts office will issue an electronically generated receipt. Processes will not be regarded as filed until and unless there is proof of payment.

2.1.2.1.2 Attorneys/parties shall file comprehensive heads of argument, for the consideration of the Judicial officer who may, on notice to the Attorneys/parties, give Judgment without the physical appearance of the Attorneys/parties.

2.1.2.1.3 Where possible, the Attorneys/parties and the court shall rely on electronic communication to get clarity on the issues raised in the heads of argument, where required.

2.1.2.1.4 Specific directives shall be issued for procedures to apply to Court of Appeal sessions.

2.1.2.2 TRIALS

2.1.2.2.1 From the 8th of May 2020 until further notice, Judicial officers shall reassign new dates to their cases in consultation with the concerned stakeholders/parties.

2.1.2.2.2 Court sittings shall, subject to social distancing, permit no more than ten (10) people including the Judicial officer, court personnel as well as the litigants and their legal representatives. However, the Judicial officer may, where he deems it necessary in the particular circumstances of the case, admit more people strictly subject to the social distancing of at least 2 meters provided further that such number shall not exceed a maximum of 50 people. At the direction of the Judicial officer, ICT platforms such as WebEx and video conferencing facilities may be utilised.

2.1.2.2.3 Submissions shall generally be through electronic filing of comprehensive heads of argument. At the direction of the Judicial officer, oral submissions may be done through ICT platforms such as WebEx and video conferencing etc.

2.2 JUDGEMENTS AND RULINGS

2.2.1 Save in exceptional circumstances, all judgments and rulings which were outstanding prior to the lockdown shall be delivered by no later than 29th May 2020.

2.3 LIVESTREAMING

2.3.1 Judgments may be delivered via ICT platforms such as WebEx, video conferencing etc.

2.3.2 Cognisant of the fact that Judgments are for public consumption, from time to time selected judgments of national importance or new areas in our jurisprudence may be televised at the direction of the Chief Justice.

2.4 JUDICIAL CASE FLOW MANAGEMENT

2.4.1 Judicial case management conferences during this period shall be dealt with in a manner to be determined by the Managing Judicial officer in terms of the Rules of Court, provided that save in exceptional circumstances no more than two case management conferences shall be held in any case, with no roll-calls or status hearings.

2.4.2 To that end, the Managing Judicial officer may where appropriate, communicate electronically with the Attorneys/parties and issue such directions as may be necessary to ensure the trial readiness of any of the matters.

2.4.3 Scheduling of cases shall be in a staggered manner and no court sitting shall be conducted continuously for more than two (2) hours without a break.

2.4.4 Paragraph 11 of Practice Directive No. 2 of 2020 is amended by substituting it with the following:

“The *dies* requirements and existing time bound orders of court arising from and/or in terms of the Magistrate Court Rules, the High Court Rules and the Court of Appeal Rules shall remain suspended for the period of the lockdown until further notice. This notwithstanding, interdicts, stays of execution, warrants of detention and arrest orders are unaffected by the lockdown and shall, where practicable, continue to be in force.”

3. **VULNERABLE POPULATIONS (PERSONS WITH UNDERLYING CONDITIONS)**

In an endeavour to protect court officials and those seeking services of the court, save in exceptional circumstances, in the case of vulnerable persons, i.e., persons with underlying conditions, recourse must be had to remote facilities where possible, such as WebEx, video conferencing etc.

4. **SOCIAL DISTANCING IN COURT FACILITIES**

Social distancing in and outside the court rooms shall be maintained at all times. Security personnel within the court premises will act as marshals to enforce the observance of social distancing and to discourage milling around the court premises.

Hearing of cases will be staggered to comply with the social distancing requirements. There shall be no socializing and milling around. Litigants, witnesses and lawyers are expected to leave the court premises when they are done.

5. **HYGIENE SUPPLIES IN COURT FACILITIES**

5.1 There will be sanitisers at court entry points such as registries and ablution facilities. Ablution facilities will be cleaned not less than twice a day or as the circumstances dictate to maintain hygiene.

5.2 Those in the cleaning services will be provided with protective equipment in the form of gloves and masks.

6. **SCREENING AT ENTRY - TEMPERATURE SYMPTOMS, CONTACT WITH INFECTED PERSONS, ETC**

Each person who enters a Court Building shall be screened in terms of the Covid-19 protocol to establish his or her temperature level.

At every entry point there will be a help desk manned by persons who have been trained to take temperature and keep an up to date register which is compulsory. Those who come to court including the staff, are to report ahead of time, as all will be subjected to the screening. An individual with a temperature above 37.4 degrees celsius will be referred in terms of the Covid-19 protocol and will not be permitted to enter the court premises.

7. **COMPULSORY FACE COVERING POLICY**

It is compulsory for people to cover their faces in public. The AOJ shall provide its staff with reusable face masks. Everyone who comes to court be it Attorneys, parties, witnesses, accused persons, or others is obliged to wear a face mask as required by law.

8. **ATTENDANCE AT COURT**

A duly issued subpoena, notice of setdown/hearing or summons to attend court, shall if duly stamped by a Registrar or Clerk of the Court authorise the person so called upon to attend court as so directed.

9. **CONCLUSION**

The above are based on the Covid-19 Regulations. These Directives will be reviewed from time to time, in the light of experience, and guided by the Regulations in an endeavour to return to "normal".

Cc: Hon. President of the Court of Appeal
Hon. Judge President of the Industrial Court
Attorney General
Director of Public Prosecutions
Commissioner of Police
Commissioner of Prisons & Rehabilitation
Chairman, Law Society of Botswana